

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

February 8, 2012
9:00 a.m.

Members present: Chairman Gilbert, Councilors Butler, Henderson, Lyons, Rastallis, Rawnsley, and Varotsis

Members absent: Councilors Gosse, Hinds, and Hoyt

Chairman Gilbert called the meeting to order at 9:00 a.m.

1. Approval of Minutes of January 11, 2012 Meeting

- ***Motion made by Councilor Varotsis to approve the minutes, second by Councilor Butler. Councilor Henderson abstained. Motion passed unanimously.***

2. Status of Appeals

Appeals Clerk, Paula Scott, presented an update on the following appeals:

I. New Appeals

Docket No. 12-01 WC – David Sundman, et al. Appeal

Re: 12/19/11 Alteration of Terrain Permit No. AoT-0353 for Dalton Valley Drag

Hearing Officer: Not Assigned

Status: Received appeal that appears to be timely on January 18, 2012. Issued receipt of appeal letter on January 20, 2012.

- ***Councilor Rawnsley moved to accept the appeal, second by Councilor Rastallis. Motion passed unanimously.***

II. Decision and Orders that need to be written, finalized and issued.

Docket Nos. 08-57 & 08-59 WC - Eric W. Waleryszak, Brian T. and Adela J. Griset Appeal

RE: Notice and Decision on the Determination of Lake Level issued by DES on 9/29/08

Presiding Officer: Christopher Rawnsley

Status: Hearing was scheduled for December 14, 2011 at 10 a.m. per the PHO. Dec. 2, 2011 received DES' amended Exhibit and Exhibit List and also received Assented-to Motion for Late Entry and Appellant's Witness and Exhibit List and the Exhibits. Council verbally Granted Motion for Late Entry. Hearing was continued to January 11, 2012. Decision and Order needs to be issued within 90 days (April 10, 2012). Draft will be circulated in 2 weeks.

III. Hearings or PHCs Pending

Docket No. 07-19 WC – Presby Environmental, Inc.

Re: 7/18/07 Innovative-Alternative Technology Approval, No. 2007-01-01

Presiding Officer: David Conley, Esq. assigned by AG on 11/16/11

Status: Oct. 27, 2011 received Motion for Rehearing and/or Reconsideration of Sept. 28, 2011 Dismissal Order. Council granted a rehearing and scheduled it for Jan. 11, 2012 at 9:30

a.m., notice sent Nov. 10, 2011. Order on Appellant's motion for Rehearing was issued and mailed on January 12, 2012.

Docket No. 11-08 WC David Riley, et al.

Re: Lake Waukegan Final Operating Level

Presiding Officer: David Conley assigned on 1/19/12

Recused: Carol Henderson

Status: Hearing scheduled for February 8, 2012 at 9 a.m. per PHO, notice given on September 14, 2011. Nov. 16, 2011 received Assented-to Motion for a Continuance.

Decision for 8 Petitioners to Intervene and decision on Motion for Continuance were issued on Nov. 28, 2011. New Hearing date is April 11, 2012 at 9 a.m., notice given in Decision dated Nov. 28, 2011. January 25, 2012 received a Fully Assented-To Motion for Interim Deadline Extension.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

Docket No. 09-05 WC - North Country Alliance for Balanced Change (Dalton Valley Drag)

RE: 12/12/08 Alteration of Terrain Permit WPS 8289 for Dalton Valley Drag

Presiding Officer: Christopher Rawnsley

Status: PO issued Order on Request to Continue Stay on 10/7/11. The Stay is in effect until at least 30 days after NHDES has rendered a final decision on Alteration of Terrain Permit Application AoT 110809-097. Dec. 19, 2011, received email from Bureau that a new AoT permit #0353 was issued to Dalton Concrete, LLC.

It was decided to contact appellant as to their status of this appeal and their intention of doing any work under this permit. Chairman Gilbert will draft a letter.

Docket No. 11-05 WC – Town of Hooksett and Hooksett Sewer Commission

RE: 3/21/11 Administrative Order, Administrative Order No. 11-010 WD

Presiding Officer: Not Assigned

Recused: Christopher Rawnsley

Status: On May 11, 2011 the Council voted unanimously to accept appeal. The Town and DES continue to be engaged in discussion to resolve this matter. Both the Town and DES request that the Council continue to delay taking action on the Notice of Appeal.

FYI

Docket No.07-17 WC Ross Realty Trust and Tippee Canoe Campground

Re; 07-17-07 Administrative Order No. 07-024 WD

Presiding Officer:

Status: Appeal received 8/15/07. At Sept. 12, 2007 meeting Council denies the request for hearing. No record of that denial ever being issued. According to the DES Program, the AO has been released and the work done. There is a question about this appeal as to whether it was withdrawn when they appealed to the Wetlands Council. Appeals Clerk is trying to make contact with appellant's attorney for more information. The attorney for Ross Realty was contacted and the clerk was informed that he is no longer the appellant's attorney but would make contact with them to review and get back to the clerk. No Change.

3. Env Wq 904.05 – Youth Recreational Camp Amendment

Sarah Pillsbury and Jocelyn Weldon

Sarah explained the history and the reason for this amendment. There are 165 camps in New Hampshire. She entertained a question and answer period.

- ***Councilor Butler moved to accept the amendments to the rules with the revision to sub-paragraph (e), second by Councilor Varotsis. Motion passed unanimously.***

4. Other Business

Chairman Gilbert

Water Sustainability Commission Update – met January 17th with a presentation on water rights law in NH, issues of access, and who controls what in the state. Work needs to be done on clarity of how it gets done. The deputy administrator from EPA came and talked about policy making. Ideas for funding for infrastructure improvements and upgrades were discussed. February meeting the commission will start framing some of its recommendations as to where the commissions work is going to end up. Focus will be to zero in on the 'how to' questions to be answered. There is a significant amount of education to be done regarding water issues. March will be regarding the value of water and how the cost structures currently are not sufficient at this time. A report is due to the Governor in June but an extension has been requested until this fall.

The Council Chairs meetings have continued. Now working on a consolidated set of administrative procedure rules for the councils so same rules for all councils.

5. Legislative Update

Director Stewart

The DES 2012 Session Bills of Interest and was distributed by Director Stewart. The email version that was sent to the council allows you to go directly to the bill. Hearings and executive sessions have been ongoing. HB 1234 does have language that involves the councils. SB 142 allows for integrated permitting for a better permitting process, which would also create a joint council on these appeals.

5. Next Meeting

March 14, 2012 at 9 a.m.

6. Adjournment

- ***Councilor Varotsis made a motion to adjourn, second by Councilor Butler. Motion passed unanimously.***

Meeting was adjourned at 9:51 a.m.